

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7689

Complaint of Katherine Miller vs. Telephone Operating)
Company of Vermont LLC, d/b/a FairPoint)
Communications, re: dispute concerning terms of service)
plan)

Order entered: 8/10/2011

ORDER CLOSING DOCKET

HEARING OFFICER'S REPORT

I. INTRODUCTION

On June 7, 2010, Katherine Miller filed a letter (the "Miller Letter") with the Vermont Public Service Board ("Board") requesting a hearing concerning a billing dispute with Telephone Operating Company of Vermont, d/b/a FairPoint Communications ("FairPoint" or the "Company"). The Miller Letter was accompanied by numerous documents — including a printout of a computer case file from the Consumer and Public Information Division (the "CAPI File") of the Vermont Department of Public Service (the "Department") — reflecting the Department's unsuccessful efforts during the spring of 2010 to resolve Ms. Miller's complaint against FairPoint.

The dispute at issue arose from the following circumstances reflected in the Miller Letter and the CAPI File. In April of 2010, FairPoint increased Ms. Miller's monthly bill for her service bundle package from \$46.95 to \$63.99. When Ms. Miller contacted FairPoint about this unannounced rate increase, the Company explained that it had been erroneously underbilling Ms. Miller's account by \$17.04 for the previous ten months. Ms. Miller was not satisfied with this explanation — from her point of view, the \$46.95 rate she had been paying for her service package accurately reflected a promotional offer she understood she had accepted from FairPoint

in July of 2009. FairPoint issued Ms. Miller a \$50.00 adjustment credit (\$5.00 x 10 months)¹ in compensation for the billing errors it had committed, but the Company otherwise declined to meet Ms. Miller's demand to have the former \$46.95 monthly rate reinstated. Therefore, Ms. Miller turned to the Board for redress that would allow her "to maintain my current service at the original rate of \$40.00 and change per month."²

On December 8, 2010, a prehearing conference was noticed in this matter pursuant to 30 V.S.A. Sections 208 and 209. On January 7, 2011, a prehearing conference was convened, at which the following individuals entered appearances: Katherine Miller, *pro se*; Sarah Davis, Esq., on behalf of FairPoint; Bill Dodds on behalf of the Department. During the prehearing conference, a discussion was had concerning the nature of Ms. Miller's complaint, the procedural process for investigating that complaint and the regulatory framework that obliges FairPoint to comply with its alternative regulation plan and attendant tariffs in marketing and providing service to its customers. The prehearing conference was then adjourned to afford the parties an opportunity to informally explore a mutually-acceptable resolution of Ms. Miller's complaint.

On January 10, 2011, FairPoint sent a letter of apology to Ms. Miller. In that letter, FairPoint expressed regret for the inconvenience Ms. Miller had experienced due to FairPoint's billing process and miscommunication of how certain charges and credits are applied to service bundle packages like the one sold to Ms. Miller.³ The Company further explained the reasons why the actions it had taken (the \$17.04 rate increase and the \$50.00 adjustment credit) had been legally necessary in order to conform Ms. Miller's bill to FairPoint's tariffed rates.

On February 15, 2011, a copy was forwarded to the Board of FairPoint's letter of apology to Ms. Miller. On April 28, 2011, the Clerk of the Board issued a memorandum setting a deadline of May 13, 2011, for the parties to comment as to whether there are any remaining

1. FairPoint was obliged to issue this credit pursuant to the \$5.00-per-billing-error-penalty provision that the Board imposed as a condition of approving FairPoint's acquisition of the Vermont assets and operations of Verizon New England, Inc. in 2008. *See* Docket 7270, *Joint Petition of Verizon New England, Inc. d/b/a Verizon-Vermont, certain affiliates thereof, and FairPoint Communications, Inc., for approval of an asset transfer, acquisition of control by merger and associated transactions*, Order of 2/15/08.

2. Miller Letter at 1.

3. Letter from M. Beth Fastiggi, on behalf of FairPoint, to Ms. Katherine Miller, dated January 10, 2011.

issues to be resolved in this docket. With that deadline now past, no party has expressed any grounds for proceeding any further in this matter. Therefore, I recommend that the Board issue an order closing this docket.

Dated at Montpelier, Vermont, this 5th day of August, 2011.

s/June E. Tierney
June E. Tierney, Esq.
Hearing Officer

II. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The report of the Hearing Officer is accepted.
2. This docket shall be closed.

Dated at Montpelier, Vermont, this 10th day of August, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: August 10, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.